

REMARKS

By this Amendment, Applicant adds new claim 18, which is clearly supported throughout the specification, and hence claims 1-18 are all the claims pending in the application.

By this amendment, Applicant also amends claims 1-3, 5, 10, 13, 14, and 16.

Applicant thanks the Examiner for the courtesy of the telephonic interview on February 14, 2008.

Claim Objections

Claims 3, 5, 10, 13, and 16 are objected to for lack of an antecedent basis. Applicant amends claims 3, 5, 10, 13, and 16, and respectfully requests the Examiner to reconsider and withdraw the objections.

Claim Rejections - 35 U.S.C. § 101

Claims 1-17 are rejected under 35 U.S.C. § 101 because the claimed invention is directed to non-statutory subject matter. Applicant respectfully traverses the rejection.

Claims 1 and 14

With regards to the rejection of claim 1, the Examiner asserts that claim 1 does not produce a useful, concrete, and tangible result. Applicant amends claim 1 to recite:

A method of constructing home-state information in a home network, comprising:

- a) constructing a home-state set using a plurality of home-state information sources which expresses the home-state information sources and all the combinations of the home-state information sources;
- b) constructing home-state objects which are specific instances of the home-state set; and
- c) constructing home-state properties expressing properties of the home-state objects which specify characteristic parts of home-state information sources.

For an invention to be useful, it must have specific, substantial and credible utility. *See* MPEP § 2106.IV.C.2(2)a. Applicant respectfully submits that the disclosure presents a disclosed substantial and credible utility for the invention of claim 1 as a method of constructing home-state information in a home network.

The second evaluation includes determining whether the practical application produces a tangible result, wherein “the tangible requirement does not necessarily mean that a claim must either be tied to a particular machine or apparatus or must operate to change articles or materials to a different state or thing. However, the tangible requirement does require that the claim must recite more than a 35 U.S.C. § 101 judicial exception, in that the process claim must set forth a practical application of that judicial exception to produce a real-world result.” *See* MPEP § 2106.IV.C.2(2)b (emphasis added). If the result has real world practical application or use, then the claim is statutory. The claim does not need to include the uses to which the result is ultimately put, just the result itself.

Applicant respectfully submits that claim 1 results in the construction of home-state information that is comprised of a home-state set, home-state objects, and home-state properties. A direct statement of the practical value of such constructed home-state information is at least disclosed at paragraphs 87 to 90 of the specification. Accordingly, Applicant respectfully submits that claim 1 produces a tangible result.

The third evaluation includes determining whether the practical application produces a concrete result, wherein “the process must have a result that can be substantially repeatable or the process must substantially produce the same result again. In re Swartz, 232 F.3d 862, 864, 56 USPQ2d 1703, 1704 (Fed. Cir. 2000) (where asserted result produced by the claimed invention is “irreproducible” claim should be rejected under section 101). The opposite of “concrete” is

unrepeatable or unpredictable. Resolving this question is dependent on the level of skill in the art.” *See* MPEP § 2106.IV.C.2(2)c (emphasis added).

Applicant respectfully submits that the claimed method of constructing home-state information is repeatable for various combinations of home-state information sources. That is to say, the method of constructing home-state information would produce the same result given a same set of home-state information sources on a home network. Further, regardless of the home-state information sources on the home network, the method will produce home-state information corresponding to the home-state information sources. Accordingly, Applicant respectfully submits that claim 1 produces a concrete result.

Therefore, Applicant respectfully submits that claim 1 satisfies 35 U.S.C. § 101.

Claim 14 is directed to a method of utilizing collected home-state information that includes the steps of “analyzing the generated home-state information to produce an event which specifies the generated home-state information,” “announcing the event outside the home network,” and “storing the generated home-state information in a computer-readable memory.” Applicant respectfully submits that claim 14 satisfies 35 U.S.C. § 101 for at least reasons analogous to those discussed above.

Claim 10 and 16

Applicant amends claims 10 and 16 to recite “a computer-readable memory” and respectfully requests the Examiner to reconsider and withdraw the rejection in view of these self-explanatory amendments.

Claim Rejections - 35 U.S.C. § 102

Claims 1 and 16-17 are rejected to under 35 U.S.C. § 102(e) as being anticipated by Gonzales et al. (US Patent App. 2003/074088, hereinafter “Gonzales”). Applicant respectfully traverses the rejection.

The Gonzales reference is directed to a method and apparatus for providing a user interface for programming devices in a home automation system. Each device in the home system is equipped with control logic for providing the user interface and retains knowledge of its inclusion or exclusion in a scene. A scene is a user-created combination of one or more devices set to a particular state. Each device knows when a scene being programmed is finally captured and when the programming of a new scene is started. *See* Gonzales, Abstract, paragraph [0004], lines 1-2, paragraph [0010], lines 6-11.

In the Office Action the Examiner asserts that Gonzales discloses all the features of claim 1. In particular, the Examiner asserts that lines 1 to 6 of paragraph [0004] of Gonzales teaches constructing a home-state set using a plurality of home-state information sources. This portion of Gonzales describes that a “scene” includes one or more devices set to a particular state.

However, Gonzales neither teaches nor suggests “constructing a home-state set using a plurality of home-state information sources which expresses the home-state information sources and all the combinations of the home-state information sources,” as recited in claim 1. Rather, Gonzales merely discloses that a user-created “scene” includes one or more devices set to a particular state. *See* Gonzales, paragraph [0004], lines 1-6, paragraph [0010], lines 6-11. Gonzales neither teaches nor suggests constructing a home-state set, as Gonzales discloses nothing about creating set of scenes comprising all the combinations of devices. Rather,

Gonzales merely discloses individual “scenes,” with no teaching or suggestion of a home-state set.

Therefore, Gonzales fails to disclose all the features of claim 1, and hence Gonzales would not have anticipated claim 1.

Claim 16

Claim 16 recites features similar to those discussed above, and hence Gonzales does not anticipate claim 16 for at least analogous reasons.

Further, in regards to claim 16, the Examiner asserts that Gonzales discloses all the features of claim 16. In particular the Examiner asserts that Gonzales teaches the claimed feature of “an information collecting module operable to collect information from various information sources in a network.” *See* Office Action, page 4. However, in rejecting claim 10, the Examiner asserts that Gonzales does not teach “an information collecting module operable to collect information from various information sources in a network.” *See* Office Action, page 8. Therefore, Applicant respectfully submits that the Examiner’s arguments are inconsistent, and hence Gonzales fails to disclose an information collecting module operable to collect information from various information sources in a network. Accordingly, Gonzales would not have anticipated claim 16 for at least this additional reason.

Claim 17

Claim 17 depends on claim 16 and incorporates all the features of claim 16, and hence claim 17 should be deemed allowable at least by virtue of its dependency.

Further, the mere “fact that a certain result or characteristic may occur or be present in the prior art is not sufficient to establish the inherency of that result or characteristic. *See* MPEP § 2112 *quoting In re Rijckaert*, 9 F.3d 1531, 1534, 28 USPQ2d 1955, 1957 (Fed. Cir. 1993). Evidence of inherency in a reference “must make it clear that the missing descriptive matter is necessarily present in the thing described in the reference, and that it would be so recognized by persons of ordinary skill. Inherency, however may not be established by probabilities or possibilities. The mere fact that a certain thing may result from a given set of circumstances is not sufficient.” *See Id. quoting In re Robertson*, 49 U.S.P.Q.2d 1949, 1950-51 (Fed. Cir. 1999). “In relying upon the theory of inherency, the examiner must provide a basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristic necessarily flows from the teaching of the applied prior art.” *See Id. quoting Ex parte Levy*, 17 USPQ2d 1461, 1464 (Bd. Pat. App. & Inter. 1990).

Regarding claim 17, the Examiner asserts that Gonzales inherently discloses that data transfer practices will use meta data in modern computer systems. *See* Office Action, page 5. However, Applicant respectfully submits that the Examiner’s assertion of inherency is improper since the Examiner has not shown that “that the missing descriptive matter is necessarily present in the thing described in the reference” and has not provided “a basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristic necessarily flows from the teaching of the applied prior art.” Rather, the Examiner’s rationale merely asserts that modern computer systems would use meta data. Accordingly, Gonzales would not have anticipated claim 17 for at least this additional reason.

Claims 2-11 and 13-14 are rejected as being unpatentable over Gonzales in view of Maxson et al. (US 2002/0171762), hereinafter Maxson. Applicant respectfully traverses the rejection.

Claims 2-9 depend on claim 1, and incorporate all the features of claim 1, and hence claims 2-9 should be deemed allowable at least by virtue of their dependency on claim 1.

Claim 2

In the Office Action the Examiner asserts that Gonzales substantially discloses all the limitations of claim 2, but concedes that Gonzales fails to disclose the home-state set comprises common profiles of the information sources. However, the Examiner asserts that lines 10 to 19 of paragraph [0047] of Maxson allegedly cures the deficient disclosures of Gonzales. This portion of Maxson describes that messages or commands having device specific infrared (IR) codes are transmitted to infrared controlled (IRC) devices.

However, Maxson neither teaches nor suggests the home-state set comprises common profiles of the home-state information sources, as claim 2 recites. Rather, Maxson discloses that specific IR codes are transmitted to IRC devices. Maxson neither teaches nor suggests the home-state set comprises common profiles of the home-state information sources, as Maxson discloses nothing about common profiles. Rather, Maxson discloses device specific IR codes for supported devices, with no teaching or suggestion of common profiles.

Therefore, Maxson fails to disclose the home-state set comprises common profiles of the home-state information sources, and hence Maxson fails to cure the deficient disclosures of Gonzales. Accordingly, the combination of Gonzales and Maxson would not have rendered claim 2 unpatentable for at least this additional reason.

Claim 3

In the Office Action the Examiner asserts that Gonzales substantially discloses all the limitations of claim 2, but concedes that Gonzales fails to disclose constructing unique profiles of the respective information sources. However, the Examiner asserts that lines 7 to 9, 17 to 20, and 28 to 32 of paragraph [0054] of Maxson allegedly cures the deficient disclosures of Gonzales. That portion of Maxson describes icons displayed on a user interface (UI).

However, Maxson neither teaches nor suggests constructing unique profiles of the home-state information sources. Rather, Maxson discloses that the UI icons may be visually altered to indicate a system status. Maxson neither teaches nor suggests constructing unique profiles of the home-state information sources, as Maxson discloses nothing about unique device profiles. Rather, Maxson merely discloses icons representing power state, channel, transport state, or action, with no teaching or suggestion that the icons represent unique profiles of home-state information sources.

Therefore, Maxson fails to disclose constructing unique profiles of the home-state information sources, and hence Maxson fails to cure the deficient disclosures of Gonzales. Accordingly, the combination of Gonzales and Maxson would not have rendered claim 3 unpatentable for at least this additional reason.

Claims 10-13

In the Office Action the Examiner asserts that Gonzales substantially discloses all the features of claim 10, but concedes that Gonzales fails to disclose an information collecting module operable to collect information from various information sources in the network. However, the Examiner asserts that lines 8 to 16 of paragraph [0008] of Maxson allegedly cures

the deficient disclosures of Gonzales. This portion of Maxson describes that a primary display and control unit (PCDU) controls external IRC and 1394 audio-visual (AV) devices.

However, Maxson neither teaches nor suggests an information collecting module operable to collect information from various information sources in the network. Rather, Maxson discloses that the PCDU includes I/O ports for coupling IRC and 1394 AV devices. Maxson neither teaches nor suggests an information collecting module operable to collect information from various information sources in the network, as Maxson discloses nothing about a network. Rather, Maxson merely discloses a home theater system, with no teaching or suggestion of a network.

Therefore, Maxson fails to disclose an information collecting module operable to collect information from various information sources in the network, and hence Maxson fails to cure the deficient disclosures of Gonzales. Accordingly, the combination of Gonzales and Maxson would not have rendered claim 10 unpatentable.

Claims 11-13 depend on claim 10 and incorporate all the features of claim 10, and hence claims 11-13 should be deemed allowable at least by virtue of their dependency on claim 10.

Claim 13

In the Office Action the Examiner asserts that Gonzales substantially discloses all the features of claim 13. In particular, the Examiner asserts that lines 9 to 18 of paragraph [0098] of Gonzales teaches the claimed feature of a user information collecting module operable to collect information of home users. This portion of Gonzales discloses that an LED indicates to a user whether a device is included in the current programming scene.

However, Gonzales neither teaches nor suggests a user information collecting module operable to collect information of home users. Rather, Gonzales discloses that a user programs a scene and LED's provide feedback information to the user. Gonzales neither teaches nor suggests a user information collecting module operable to collect information of home users, as Gonzales discloses nothing about collecting information of, i.e. about, home users. Rather, Gonzales merely discloses that users program a system to control devices, with no teaching or suggestion of collection information of the user.

Therefore, Gonzales fails to disclose a user information collecting module operable to collect information of home users. Maxson also fails to disclose such a feature, and hence the combination of Gonzales and Maxson would not have rendered claim 13 unpatentable for at least this additional reason.

Claim 14

Claim 14 recites features similar to those discussed above regarding claim 10, and hence the combination of Gonzales and Maxson would not have rendered claim 14 unpatentable for at least analogous reasons.

Claims 12 and 15 are rejected as being unpatentable over Gonzales in view of Maxson as applied to claims 10, 11 and 14 and further in view of official notice. Applicant respectfully traverses the rejection.

Claims 12 and 15 depend on claims 10 and 14, respectively, and incorporate all the features of claims 10 and 14, and hence claims 12 and 15 should be deemed allowable at least by virtue of their dependency on claims 10 and 14.

Further, the Examiner takes official notice that it is well known in the art of common burglar alarm computer systems to announce an event outside of a home depending on results analyzed by the home-state analyzing module. However, the field of burglar alarms is an unrelated art to the field of home agents and home-state utilization. Burglar alarm systems merely transmit a signal when a breach is detected in a security system. Conversely, home agents and home-state analysis requires the detection of various different home-state information sources having various different properties. Accordingly, a person having skill in the art would have no reason to modify Gonzales as the Examiner asserts in the Office Action.

Accordingly, the combination of Gonzales and Maxson would not have rendered claims 12 and 15 unpatentable for at least this additional reason.

Conclusion

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.


Respectfully submitted,

SUGHRUE MION, PLLC
Telephone: (202) 293-7060
Facsimile: (202) 293-7860

WASHINGTON OFFICE

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CUSTOMER NUMBER



Peter A. McKenna
Registration No. 38,551

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